REMARKS

Claims 9, 17-18, 20, and 23-32 are pending.

The Examiner rejected claims 9, 17-18, 20, 23-32 under 35 USC 103(a) as being unpatentable over Mainfisch et al (US5852012) and The Agrochemical Handbook. According to the Examiner, Mainfisch teaches an insecticidal composition comprising compounds 1.2 and 1.4 in Table 1, which the Examiner indicates are equivalent to the claimed compounds A.1 and A.3. The Examiner states that Mainfisch teaches that compositions comprising the compounds are made by combining the compounds with auxiliaries and optionally other actives, and the reference further teaches a method of controlling insects with the compositions. According to the Examiner, Mainfisch does not teach the composition or method comprising abamectin. For this element, the Examiner relies on The Agrochemical Handbook, which he indicates teaches that abamectin is an insecticide known for controlling insects in crops and soils. According to the Examiner, "it would have been obvious to one having ordinary skill in the art to modify the invention taught by Mainfisch to include the abamectin taught by The Agrichemical Handbook. One would have been motivated to do this since each reference have (*sic*) the same utility, i.e., each reference discloses insecticidal inventions and since Mainfisch welcomes the addition of auxiliaries and other actives."

The Mainfisch reference is directed to the preparation of tetrahydrooxadiazines as insecticides, and embraces compounds falling within the scope of the present claims. The Agrichemical Handbook is a reference providing information directed to identifying active ingredients for pesticidal plant protection. The Examiner maintains that the combination of references is based on the motivation that one of ordinary skill in the art would have combined active ingredients having the same utility based on Mainfisch's teaching that additional active ingredients could be used. Applicants respectfully submit that the references are not properly combined and the motivation provided by the Examiner does not exist since Mainfisch's disclosure of additional active ingredients is limited to general classes of compounds of which abamectin fails to belong. Applicants note that at column 17, lines 50-67, Mainfisch indicates that additional active ingredients may be from the following classes: organophosphorus compounds, nitrophenols and derivatives, formamidines, ureas, carbamates, pyrethroids, chlorinated hydrocarbons and *Bacillus thuringiensis* preparations. As abamectin is a natural fermentation product of the soil

bacterium *Streptomyces avermitilis*, Applicants respectfully submit that the reference fails to provide any guidance to one of ordinary skill in the art to combine this class of compound with the primary insecticides of the reference, tetrahydrooxadiazines. In addition to not teaching the general class of compounds to which abamectin belongs, the reference also fails to direct the ordinary artisan to select this specific active ingredient as a mixing partner with the subject tetrahydrooxadiazines, thus making the Examiner's selection of the same based solely on impermissible hindsight. As the Examiner has failed to provide motivation to combine these references, he has thus failed to establish a *prima facie* case of obviousness. Accordingly, Applicants respectfully request that the rejection be withdrawn.

In light of the remarks set forth herein, Applicants respectfully request withdrawal of the final rejection and solicit early allowance of all of the claims.

Respectfully submitted,

Syngenta Crop Protection, Inc.
410 Swing Road
Greensboro, NC 27409
(336) 632-7547

/JACQUELINE HALEY/
Jacqueline Haley
Attorney for Applicants
Reg. No. 41,457

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